

# HOUSE BILL No. 1646

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1; IC 6-3.5.

**Synopsis:** Enhanced EDGE credits. Allows a county that imposes the county economic development income tax (CEDIT) to adopt the following ordinances to increase the amount of an economic development for a growing economy (EDGE) tax credit received by an eligible taxpayer in the county by authorizing the department of state revenue to retain part of the county's CEDIT revenues to increase the available EDGE credit: (1) An ordinance to provide CEDIT revenues in an amount equal to a specified percentage of the taxpayer's payroll for the county. (2) An ordinance to provide CEDIT revenues in an amount equal to the total tax rate for all local income taxes imposed by the county at the time the ordinance is adopted, multiplied by the taxpayer's payroll for all employees subject to the county's local income taxes. (3) An ordinance authorizing the county to enter into a multicounty agreement in which each nonhost county agrees to provide CEDIT revenues on behalf of its residents who are employees of the taxpayer in an EDGE project in the host county, in an amount equal to the local income taxes imposed by the host county, at the rates in effect at the time the agreement is executed, that would otherwise be withheld by the employer on behalf of those employees if the nonhost taxpayer did not impose one or more local taxes. Provides that a multicounty agreement may provide CEDIT revenues for current or future EDGE projects in the participating counties. Prohibits a county from rescinding the county economic development income tax or decreasing the rate of the tax if the county has adopted an ordinance to increase available EDGE credits. Prohibits a county from adopting an ordinance to increase an EDGE credit with county CEDIT revenues if doing so  
(Continued next page)

**Effective:** July 1, 2003.

**Hasler**

January 16, 2003, read first time and referred to Committee on Ways and Means.



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would impair the county's ability pay outstanding bonds or leases payable from CEDIT revenues. Allows a taxpayer who is awarded an EDGE credit to apply to the development finance authority (IDFA) for a loan in the amount of the total credit amount to be awarded over the term of the credit. Requires the taxpayer to enter into a loan agreement with IDFA before the disbursement of any funds. Provides that IDFA acquires a security interest in the project being financed by the loan. Requires the department of state revenue to annually refund to the taxpayer the difference between the taxpayer's actual state tax liability for the year and the taxpayer's state liability if the taxpayer had claimed the EDGE credit for that year. Requires the taxpayer to remit the amount of the refund to IDFA as a minimum annual repayment of the loan amount. Provides that if the total refunds remitted to IDFA at the end of the loan term, plus any additional payments by the taxpayer, are less than the outstanding balance of the loan, IDFA may require the taxpayer to pay the full amount of the unpaid balance.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1646

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3.1-13-11 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. Subject to the  
3 conditions set forth in this chapter, **and unless the taxpayer enters**  
4 **into an agreement with the Indiana development finance authority**  
5 **under section 21.5 of this chapter**, a taxpayer is entitled to a credit  
6 against any state tax liability that may be imposed on the taxpayer for  
7 a taxable year after December 31, 1993, if the taxpayer is awarded a  
8 credit by the board under this chapter for that taxable year.
- 9 SECTION 2. IC 6-3.1-13-13, AS AMENDED BY P.L.178-2002,  
10 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2003]: Sec. 13. (a) The board may make credit awards under  
12 this chapter to foster job creation in Indiana or, as provided in section  
13 15.5 of this chapter, job retention in Indiana.
- 14 (b) The credit shall be claimed for the taxable years specified in the  
15 taxpayer's tax credit agreement, **unless the taxpayer enters into an**



1 **agreement with the Indiana development finance authority under**  
 2 **section 21.5 of this chapter.**

3 SECTION 3. IC 6-3.1-13-15, AS AMENDED BY P.L.178-2002,  
 4 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2003]: Sec. 15. This section applies to an application  
 6 proposing a project to create new jobs in Indiana. After receipt of an  
 7 application, the board may enter into an agreement with the applicant  
 8 for a credit under this chapter if the board determines that all of the  
 9 following conditions exist:

10 (1) The applicant's project will create new jobs that were not jobs  
 11 previously performed by employees of the applicant in Indiana.

12 (2) The applicant's project is economically sound and will benefit  
 13 the people of Indiana by increasing opportunities for employment  
 14 in Indiana and strengthening the economy of Indiana.

15 (3) The political subdivisions affected by the project have  
 16 committed significant local incentives with respect to the project.

17 **Incentives that may be considered by the board under this**  
 18 **subdivision include any incentives offered by one (1) or more**  
 19 **counties under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

20 (4) Receiving the tax credit is a major factor in the applicant's  
 21 decision to go forward with the project and not receiving the tax  
 22 credit will result in the applicant not creating new jobs in Indiana.

23 (5) Awarding the tax credit will result in an overall positive fiscal  
 24 impact to the state, as certified by the budget agency using the  
 25 best available data.

26 (6) The credit is not prohibited by section 16 of this chapter.

27 SECTION 4. IC 6-3.1-13-15.5, AS ADDED BY P.L.178-2002,  
 28 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2003]: Sec. 15.5. This section applies to an application  
 30 proposing to retain existing jobs in Indiana. After receipt of an  
 31 application, the board may enter into an agreement with the applicant  
 32 for a credit under this chapter if the board determines that all the  
 33 following conditions exist:

34 (1) The applicant's project will retain existing jobs performed by  
 35 the employees of the applicant in Indiana.

36 (2) The applicant provides evidence that there is at least one (1)  
 37 other competing site outside Indiana that is being considered for  
 38 the project or for the relocation of jobs.

39 (3) A disparity is identified, using the best available data, in the  
 40 projected costs for the applicant's project in Indiana compared  
 41 with the costs for the project in the competing site.

42 (4) The applicant is engaged in research and development,

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manufacturing, or business services (as defined in the Standard Industrial Classification Manual of the United States Office of Management and Budget).

(5) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%).

(6) The applicant employs at least two hundred (200) employees in Indiana.

(7) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

(8) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(9) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(10) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(11) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar and fifty cents (\$1.50) of local incentives with respect to the retention of jobs for every three dollars (\$3) in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, ~~and~~ training investments, **and any incentives offered by one (1) or more counties under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

(12) The credit is not prohibited by section 16 of this chapter.

SECTION 5. IC 6-3.1-13-17, AS AMENDED BY P.L.178-2002, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that

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proposes a project to create jobs in Indiana, the board shall take into consideration the following factors:

- (1) The economy of the county where the projected investment is to occur.
- (2) The potential impact on the economy of Indiana.
- (3) The incremental payroll attributable to the project.
- (4) The capital investment attributable to the project.
- (5) The amount the average wage paid by the applicant exceeds the average wage paid within the county in which the project will be located.
- (6) The costs to Indiana and the affected political subdivisions with respect to the project.
- (7) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions. **However, the board may not reduce the amount of the credit that it would otherwise award under this section because of the availability or amount of any incentives that may be provided to the applicant by one (1) or more counties under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

As appropriate, the board shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. In the case of an applicant under section 15.5 of this chapter, the board shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.

SECTION 6. IC 6-3.1-13-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21.5. (a) As used in this section, "authority" refers to the Indiana development finance authority created by IC 4-4-11-4.**

**(b) As used in this section, "total credit amount" refers to the total of the yearly credit amounts available to a taxpayer over the term of a credit awarded to the taxpayer under this chapter, including any credit increases offered by one (1) or more counties under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

**(c) If a taxpayer is awarded a credit under this chapter, the taxpayer may, instead of applying the total credit amount against the taxpayer's state tax liability over the term of the credit, apply to the authority for a loan in the amount of the total credit amount.**

**(d) The authority shall prescribe the form of a loan application under this section. The authority may approve a loan application**

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under this section if the authority makes a written finding that the loan would accomplish the purposes for which the tax credit was originally awarded by the board under this chapter and the purposes of the authority.

(e) Upon approval of a loan application by the authority, the authority and the taxpayer shall enter into an agreement that includes the following:

(1) For a loan approved for a project to create new jobs in Indiana, the following terms:

(A) A detailed description of the project that is the subject of the agreement.

(B) A requirement that the taxpayer shall provide to the authority and the department of state revenue, on a form prescribed by the authority and certified by the board, the following information concerning the credit originally awarded by the board:

(i) The duration of tax credit awarded.

(ii) The first taxable year the taxpayer would be eligible to claim the credit.

(iii) The credit amount allowed for each taxable year, including any credit increases provided by one (1) or more counties under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.

(iv) Any other information required by the authority.

(C) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit originally awarded by the board. A taxpayer is subject to a determination of noncompliance under subsection (i) for noncompliance with the requirement described in this clause.

(D) A specific method for determining the number of new employees who are performing jobs not previously performed by an employee of the taxpayer employed by the taxpayer during each year of the term of the tax credit originally awarded by the board.

(E) A requirement that the taxpayer shall annually report to the authority:

(i) the number of new employees who are performing jobs not previously performed by an employee of the taxpayer, as determined under the method specified under clause (D); and

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(ii) the new income tax revenue withheld in connection with the new employees.

(F) A requirement that the authority is authorized to verify with the appropriate state agencies the amounts reported under clause (E) and, after doing so, shall issue a certificate to the taxpayer stating that the amounts have been verified.

(G) A requirement that the taxpayer shall provide written notification to the authority and the department of state revenue not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(H) Any other performance conditions that the authority determines are appropriate.

(2) For a loan approved for a project to retain existing jobs in Indiana, the following terms:

(A) A detailed description of the business that is the subject of the agreement.

(B) A requirement that the taxpayer shall provide to the authority and the department of state revenue, on a form prescribed by the authority and certified by the board, the following information concerning the credit originally awarded by the board:

(i) The duration of tax credit awarded.

(ii) The first taxable year the taxpayer would be eligible to claim the credit.

(iii) The credit amount allowed for each taxable year, including any credit increases provided by one (1) or more counties under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.

(iv) Any other information required by the authority.

(C) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit originally awarded by the board. A taxpayer is subject to an assessment under subsection (i) for noncompliance with the requirement described in this clause.

(D) A requirement that the taxpayer shall report annually the following to the authority:

(i) The number of employees who are employed in Indiana by the taxpayer.

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(ii) The compensation (including benefits) paid to the taxpayer's employees in Indiana.

(iii) The amount of the facility improvements, equipment and machinery upgrades, repairs, or retrofits, or other direct business related investments, including training, made by the taxpayer during the year.

(E) A requirement that the taxpayer shall provide written notification to the authority and the department of state revenue not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(F) A requirement that the taxpayer's chief executive officer must verify under penalty of perjury that the disparity between the projected costs of the taxpayer's project in Indiana and the costs for the project in a competing site is real and actual.

(G) Any other performance conditions that the authority determines are appropriate.

(3) For a loan described in subdivision (1) or (2), the following terms:

(A) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority and the purposes for which the credit was originally awarded by the board under this chapter. Approved purposes for use of the loan proceeds include the acquisition of land, site improvements, infrastructure improvements, buildings or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related to any project.

(B) The term of the loan, which may not be longer than the term of the tax credit originally awarded by the board under this chapter.

(C) The repayment schedule for the loan, which must require minimum annual payments in the amount determined under subsection (g).

(D) If the amount loaned is not discounted by the authority, the interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all expenses of the authority

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1 in making the loan.

2 (E) Any other terms and provisions that the authority  
3 requires.

4 (f) Upon the execution of the agreement under subsection (e),  
5 the authority shall disburse to the taxpayer:

6 (1) the total credit amount, reasonably discounted by the  
7 authority for inflation and any management or administrative  
8 costs of the authority in making the loan; or

9 (2) the total credit amount, not discounted by the authority,  
10 subject to a rate of interest determined by the authority.

11 As a condition for the disbursement of funds under this subsection,  
12 the authority must acquire a secured interest in the project to be  
13 financed with the loan.

14 (g) For each of the taxpayer's taxable years during the period  
15 that corresponds to the term of the tax credit originally awarded  
16 by the board under this chapter, the department of state revenue  
17 shall determine an amount equal to:

18 (1) the amount of the taxpayer's actual state tax liability for  
19 the taxable year; minus

20 (2) the amount of:

21 (A) the taxpayer's state tax liability for the taxable year if  
22 the credit amount originally awarded by the board for the  
23 taxable year, including any credit increases provided by  
24 one (1) or more counties under IC 6-3.1-13.1, IC 6-3.1-13.2,  
25 or IC 6-3.1-13.3 for the taxable year, had been applied  
26 against the taxpayer's actual state tax liability; plus

27 (B) any refund the taxpayer would have received if the  
28 credit amount described in clause (A) is greater than the  
29 taxpayer's actual state tax liability.

30 In determining the amount specified in this subsection, the  
31 department of state revenue may rely on the information provided  
32 by the taxpayer under subsection (e)(1)(B) or (e)(2)(B). The  
33 department of state revenue shall certify the amount determined  
34 under this subsection to the taxpayer and the authority on a form  
35 prescribed by the authority and submitted in duplicate by the  
36 taxpayer to the department of state revenue along with the  
37 taxpayer's state tax return. The department of state revenue shall  
38 remit the amount determined under this subsection to the taxpayer  
39 as a refund. Upon receipt of the refund from the department of  
40 state revenue, the taxpayer shall remit to the authority the total  
41 amount of the refund as a minimum annual repayment of the  
42 proceeds of the loan granted under this section according to the

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1 repayment schedule set forth in the agreement between the  
2 authority and the taxpayer.

3 (h) If, at the end of the term of the loan, the total of the  
4 minimum annual repayment amounts remitted to the authority  
5 under subsection (g) for the duration of the credit term, plus any  
6 additional amounts remitted by the taxpayer over the term of the  
7 loan, is less than the total principal amount of the loan, plus any  
8 interest accrued, the authority may require the taxpayer to pay the  
9 full amount of the unpaid balance, subject to:

10 (1) the terms of the agreement between the taxpayer and the  
11 authority; and

12 (2) the authority's security agreement in the project financed  
13 under subsection (f) and other rights under subsection (i).

14 (i) If the authority determines that a taxpayer who has received  
15 a loan under this chapter is not complying with the terms of the  
16 loan agreement or this section, the authority may require the  
17 taxpayer to pay the full amount of the principal balance remaining,  
18 plus any accrued and unpaid interest.

19 (j) If the authority makes a determination of noncompliance  
20 under subsection (i), the authority shall provide notice of its  
21 determination, along with a copy of the loan agreement, to the  
22 department of state revenue and the director of the department of  
23 commerce. If the director of the department of commerce  
24 determines that the taxpayer's noncompliance with the loan  
25 agreement constitutes noncompliance with the purposes for which  
26 the credit was originally awarded, the director shall, after giving  
27 the taxpayer an opportunity to explain the noncompliance, notify  
28 the department of commerce of the noncompliance and request an  
29 assessment. The director shall state the amount of the assessment,  
30 which may not exceed the sum of any amounts previously refunded  
31 to the taxpayer by the department of state revenue under  
32 subsection (g). After receiving the director's notice, the department  
33 of commerce shall make an assessment against the taxpayer under  
34 IC 6-8.1 for the amount stated in the director's notice.

35 (k) Upon payment by the taxpayer of any of the assessment  
36 amount determined under subsection (j), a part of the total amount  
37 paid shall be credited to the account established by IC 6-3.5-7-10  
38 within the state general fund for a county that has provided the  
39 taxpayer with any increased refund amounts under subsection (g)  
40 through the adoption of an ordinance under IC 6-3.1-13.1,  
41 IC 6-3.1-13.2, or IC 6-3.1-13.3. The part of the total payment that  
42 shall be credited to the county's account must bear the same



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1 proportion to the total payment that the increased refund amounts  
 2 provided by the county under IC 6-3.1-13.1, IC 6-3.1-13.2, or  
 3 IC 6-3.1-13.3 bear to the total refund amounts received by the  
 4 taxpayer under subsection (g).

5 SECTION 7. IC 6-3.1-13-22 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) If the director  
 7 determines that a taxpayer who has received a credit under this chapter  
 8 is not complying with the requirements of the tax credit agreement or  
 9 all of the provisions of this chapter the director shall, after giving the  
 10 taxpayer an opportunity to explain the noncompliance, notify the  
 11 department of commerce of the noncompliance and request an  
 12 assessment. The director shall state the amount of the assessment,  
 13 which may not exceed the sum of any previously allowed credits under  
 14 this chapter, **including any increased credit amounts that the**  
 15 **taxpayer received due to a county's adoption of an ordinance under**  
 16 **IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.** After receiving such  
 17 a notice, the department of commerce shall make an assessment against  
 18 the taxpayer under IC 6-8.1 for the amount stated in the director's  
 19 notice. **The amount of the assessment must include an amount**  
 20 **sufficient to compensate a county that has provided the taxpayer**  
 21 **with any increased credit amounts through the adoption of an**  
 22 **ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

23 (b) Upon payment by the taxpayer of any of the assessment  
 24 amount determined under subsection (a), a part of the total  
 25 amount paid shall be credited to the account established under  
 26 IC 6-3.5-7-10 within the state general fund for a county that has  
 27 provided the taxpayer with any increased credit amounts through  
 28 the adoption of an ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or  
 29 IC 6-3.1-13.3. The part of the total payment that shall be credited  
 30 to the county's account must bear the same proportion to the total  
 31 payment that the increased credit amounts provided by the county  
 32 under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3 bear to the total  
 33 credit amounts received by the taxpayer.

34 SECTION 8. IC 6-3.1-13.1 IS ADDED TO THE INDIANA CODE  
 35 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2003]:

37 **Chapter 13.1. Enhanced Economic Development for a Growing**  
 38 **Economy Tax Credit**

39 **Sec. 1. This chapter applies to a county that:**

- 40 (1) imposes the county economic development income tax  
 41 under IC 6-3.5-7; and  
 42 (2) has within the county's corporate boundaries:



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(A) an enterprise zone designated under IC 4-4-6.1; or

(B) an airport development zone under IC 8-22-3.5.

Sec. 2. As used in this chapter, "board" refers to the economic development for a growing economy board established by IC 6-3.1-13-12.

Sec. 3. As used in this chapter, "county income tax council" means a council established under IC 6-3.5-6-2.

Sec. 4. As used in this chapter, "eligible taxpayer" means a taxpayer (as defined in IC 6-3.1-13-10) that has been awarded a state tax liability credit by the board under IC 6-3.1-13 for a proposed project to create or retain jobs at a location wholly or partly within an:

(1) enterprise zone; or

(2) airport development zone;

within a county's corporate boundaries.

Sec. 5. (a) Subject to subsection (c), a county may adopt an ordinance to provide revenue from the county's economic development income tax to increase the amount of the credit against state tax liability available under IC 6-3.1-13 to an eligible taxpayer. Except as provided in subsection (d), the county may provide revenues from the county's economic development income tax for each year that the credit is available under the agreement between the board and the taxpayer under IC 6-3.1-13 in an amount equal to:

(1) a percentage, not to exceed four percent (4%), that is specified by the county in the ordinance; multiplied by

(2) the amount of the taxpayer's actual annual payroll in the county during the year for which the taxpayer is claiming a credit under the agreement with the board, as determined from the taxpayer's withholding reports under IC 6-3-4-8 or IC 6-3.5-7-18(c) for that year.

An ordinance under this section must be adopted before December 31 of the year preceding the calendar year during which the increase of the credit awarded under IC 6-3.1-13, resulting from the economic development income tax revenues dedicated by the county, will first be available to an eligible taxpayer, as specified in the ordinance.

(b) An ordinance adopted under this section must instruct the department of state revenue to retain from the revenue derived from the imposition of the county economic development income tax an amount that would otherwise be credited to the county's special account within the state general fund under IC 6-3.5-7-10

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equal to the greater of:

- (1) the total amount determined under subsection (a) for each eligible taxpayer in the county; or
- (2) the actual revenues generated from the imposition of the county economic development income tax;

for deposit into the state general fund.

(c) A county may not adopt an ordinance under this section if, before the adoption of the proposed ordinance, there are:

- (1) any bonds outstanding that were issued under IC 6-3.5-7-14 and payable from the county's economic development income tax; or
- (2) leases entered into under IC 6-3.5-7-21 and payable from the county's economic development income tax;

to the extent that adoption of the ordinance under this section would impair the rights of any holder of the bonds issued or any party to the leases entered into.

(d) An ordinance adopted under this section may provide that the increased credit will be provided for a total number of years that is less than the duration of the credit awarded under IC 6-3.1-13.

(e) An ordinance under this section may be adopted in conjunction with the adoption of an ordinance under:

- (1) IC 6-3.5-7-5 to impose the county economic development income tax;
- (2) IC 6-3.5-7-6 to increase the rate of the county economic development income tax;
- (3) IC 6-3.1-13.2; or
- (4) IC 6-3.1-13.3;

and may be consolidated with any ordinance described in subdivisions (1) through (4), if the county determines that it will be able to meet all obligations incurred under the ordinances adopted.

(f) The entity that may adopt the ordinance permitted under this section is:

- (1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;
- (2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or
- (3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

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To adopt an ordinance under this section, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax. The entity that adopts the ordinance shall provide a certified copy of the ordinance to the department of commerce and the department of state revenue before February 1 of the calendar year during which the increase of the credit awarded under IC 6-3.1-13 will first be available to an eligible taxpayer.

(g) An eligible taxpayer is not required to file an application to qualify for the increased credit resulting from the adoption of an ordinance under this section.

(h) The department of commerce and the department of state revenue may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 9. IC 6-3.1-13.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 13.2. Local Economic Development for a Growing Economy Tax Credit**

**Sec. 1.** This chapter applies to a county that imposes the county economic development income tax under IC 6-3.5-7.

**Sec. 2.** As used in this chapter, "board" refers to the economic development for a growing economy board established by IC 6-3.1-13-12.

**Sec. 3.** As used in this chapter, "county income tax council" means a council established under IC 6-3.5-6-2.

**Sec. 4.** As used in this chapter, "eligible taxpayer" means a taxpayer (as defined in IC 6-3.1-13-10) that has been awarded a state tax liability credit by the board under IC 6-3.1-13 for a proposed project to create or retain jobs at a location wholly or partly within a county's corporate boundaries.

**Sec. 5. (a)** Subject to subsection (c), a county may adopt an ordinance to provide revenue from the county's economic development income tax to increase the amount of the credit against state tax liability available under IC 6-3.1-13 to an eligible taxpayer. Subject to subsection (d), the county may provide revenues from the county's economic development income tax for each year that the credit is available under the agreement between the board and the taxpayer under IC 6-3.1-13 in an amount equal to:

- (1) a percentage equal to the total of all local income tax rates for all local income taxes imposed by the county under

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IC 6-3.5, determined at the time the ordinance under this section is adopted; multiplied by  
 (2) the amount of the taxpayer's actual annual payroll in the county for employees who are subject to the local income taxes imposed by the county under IC 6-3.5 during the year for which the taxpayer is claiming a credit under the agreement with the board, as determined from the taxpayer's withholding reports under IC 6-3-4-8 or IC 6-3.5-7-18(c) for that year.

An ordinance under this section must be adopted before December 31 of the year preceding the calendar year during which the increase of the credit awarded under IC 6-3.1-13, resulting from the economic development income tax revenues dedicated by the county, will first be available to an eligible taxpayer, as specified in the ordinance.

(b) An ordinance adopted under this section must instruct the department of state revenue to retain from the revenue derived from the imposition of the county economic development income tax an amount that would otherwise be credited to the county's special account within the state general fund under IC 6-3.5-7-10 equal to the greater of:

- (1) the total amount determined under subsection (a) for each eligible taxpayer in the county; or
- (2) the actual revenues generated from the imposition of the county economic development income tax;

for deposit into the state general fund.

(c) A county may not adopt an ordinance under this section if, before the adoption of the proposed ordinance, there are:

- (1) any bonds outstanding that were issued under IC 6-3.5-7-14 and payable from the county's economic development income tax; or
- (2) leases entered into under IC 6-3.5-7-21 and payable from the county's economic development income tax;

to the extent that adoption of the ordinance under this section would impair the rights of any holder of the bonds issued or any party to the leases entered into.

(d) A ordinance adopted under this section may provide that the increased credit will be provided for a total number of years that is less than the duration of the credit awarded under IC 6-3.1-13.

(e) An ordinance under this section may be adopted in conjunction with the adoption of an ordinance under:

- (1) IC 6-3.5-7-5 to impose the county economic development

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income tax;

(2) IC 6-3.5-7-6 to increase the rate of the county economic development income tax;

(3) IC 6-3.1-13.1; or

(4) IC 6-3.1-13.3;

and may be consolidated with any ordinance described in subdivisions (1) through (4) if the county determines that it will be able to meet all obligations incurred under the ordinances adopted.

(f) The entity that may adopt the ordinance permitted under this section is:

(1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;

(2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or

(3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

To adopt an ordinance under this section, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax. The entity that adopts the ordinance shall provide a certified copy of the ordinance to the department of commerce and the department of state revenue before February 1 of the calendar year during which the increase of the credit awarded under IC 6-3.1-13 will first be available to an eligible taxpayer.

(g) An eligible taxpayer is not required to file an application to qualify for the increased credit resulting from the adoption of an ordinance under this section.

(h) The department of commerce and the department of state revenue may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 10. IC 6-3.1-13.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 13.3. Regional Economic Development for a Growing Economy Tax Credit**

**Sec. 1.** This chapter applies to a county that imposes the county economic development income tax under IC 6-3.5-7.

**Sec. 2.** As used in this chapter, "board" refers to the economic development for a growing economy board established by



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1 IC 6-3.1-13-12.

2 Sec. 3. As used in this chapter, "county income tax council"  
3 means a council established under IC 6-3.5-6-2.

4 Sec. 4. As used in this chapter, "eligible taxpayer" means a  
5 taxpayer (as defined in IC 6-3.1-13-10) that has been awarded a  
6 state tax liability credit by the board under IC 6-3.1-13 for a  
7 proposed project to create or retain jobs at a location wholly or  
8 partly within the corporate boundaries of one (1) or more  
9 participating counties.

10 Sec. 5. As used in this chapter, "future incentive agreement"  
11 means an agreement that:

12 (1) is entered into by two (2) or more participating counties  
13 under section 12 of this chapter; and

14 (2) applies to any future project that may be located within  
15 the corporate boundaries of one (1) or more participating  
16 counties and for which an eligible taxpayer may be awarded  
17 a credit under IC 6-3.1-13.

18 Sec. 6. As used in this chapter, "host county" means a  
19 participating county in which the project of an eligible taxpayer  
20 will be wholly or partly located.

21 Sec. 7. As used in this chapter, "nonhost county" means a  
22 participating county:

23 (1) that will not have within its corporate boundaries the  
24 project of an eligible taxpayer; and

25 (2) the residents of which may be employees at the project of  
26 the eligible taxpayer.

27 Sec. 8. As used in this chapter, "participating county" means a  
28 county that has adopted an ordinance under section 10 of this  
29 chapter to enter into a project agreement or future incentive  
30 agreement under this chapter.

31 Sec. 9. As used in this chapter, "project agreement" means an  
32 agreement that:

33 (1) is entered into by two (2) or more participating counties  
34 under section 11 of this chapter; and

35 (2) applies to a specific project within the corporate  
36 boundaries of one (1) or more of the participating counties for  
37 which an eligible taxpayer has been awarded a credit under  
38 IC 6-3.1-13.

39 Sec. 10. (a) A county may adopt an ordinance authorizing the  
40 county to enter into a project agreement or future incentive  
41 agreement with one (1) or more participating counties. An  
42 ordinance adopted under this section must:

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- (1) specify the proposed participating counties; and
- (2) authorize the county to enter into a project agreement or future incentive agreement with any one (1) or more of the proposed participating counties that adopt an ordinance under this section.

(b) An ordinance under this section may be adopted in conjunction with the adoption of an ordinance under:

- (1) IC 6-3.5-7-5 to impose the county economic development income tax;
- (2) IC 6-3.5-7-6 to increase the rate of the county economic development income tax;
- (3) IC 6-3.1-13.1; or
- (4) IC 6-3.1-13.2;

and may be consolidated with any ordinance described in subdivisions (1) through (4), if the county determines that it will be able to meet all obligations incurred under the ordinances adopted.

(c) The entity that may adopt the ordinance permitted under this section is:

- (1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;
- (2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or
- (3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

To adopt an ordinance under this section, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

Sec. 11. (a) If one (1) or more counties adopt an ordinance under section 10 of this chapter authorizing the counties to enter into a project agreement, the participating counties may, subject to subsection (c), execute a project agreement that requires each participating county to provide revenue from the county's economic development income tax to increase the amount of the credit against state tax liability available under IC 6-3.1-13 to an eligible taxpayer that has been awarded a credit under IC 6-3.1-13 for a project located wholly or partly within the corporate boundaries of one (1) or more of the participating counties. Subject to subsection (d), each participating county shall provide revenues from the county's economic development income tax for each year

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the credit is available to the taxpayer under the agreement between the board and the taxpayer under IC 6-3.1-13 in the following amounts:

(1) For a host county, an amount equal to:

(A) a percentage equal to the total of all local income tax rates for all local income taxes imposed by the county under IC 6-3.5, determined at the time the project agreement under this section is executed; multiplied by

(B) the amount of the taxpayer's actual annual payroll in the county for employees who are subject to the local income taxes imposed by the county under IC 6-3.5 during the year for which the taxpayer is claiming a credit under the agreement with the board, as determined from the taxpayer's withholding reports under IC 6-3-4-8 or IC 6-3.5-7-18(c) for that year.

(2) For a nonhost county, an amount equal to:

(A) a percentage equal to the total of all local income tax rates for all local income taxes imposed by the host county under IC 6-3.5, determined at the time the project agreement under this section is executed; multiplied by

(B) the amount of the taxpayer's actual annual payroll in the county for employees who are residents of the nonhost county and not subject to the local income taxes imposed by the host county under IC 6-3.5 because of the nonhost county's imposition of one (1) or more local income taxes under IC 6-3.5 during the year for which the taxpayer is claiming a credit under the agreement with the board, as determined from the taxpayer's withholding reports under IC 6-3-4-8 or IC 6-3.5-7-18(c) for that year.

A project agreement under this section must be executed before December 31 of the year preceding the calendar year during which the increase of the credit awarded under IC 6-3.1-13, resulting from the economic development income tax revenues dedicated by the counties, will first be available to an eligible taxpayer, as specified in the project agreement.

(b) A project agreement executed under this section must instruct the department of state revenue to retain, from the revenue derived from the imposition of a participating county's economic development income tax an amount, that would otherwise be credited to the county's special account within the state general fund under IC 6-3.5-7-10 equal to the greater of:

(1) the amount determined under subsection (a) for the

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participating county; or

(2) the actual revenues generated from the imposition of the participating county's economic development income tax; for deposit into the state general fund.

(c) A county may not execute a project agreement under this section if, before the execution of the proposed agreement, there are:

(1) any bonds outstanding that were issued under IC 6-3.5-7-14 and payable from the county's economic development income tax; or

(2) leases entered into under IC 6-3.5-7-21 and payable from the county's economic development income tax; to the extent that the execution of the project agreement under this section would impair the rights of any holder of the bonds issued or any party to the leases entered into.

(d) A project agreement executed under this section may provide that the increased credit will be provided for a total number of years that is less than the duration of the credit awarded under IC 6-3.1-13.

(e) A project agreement under this section shall be executed on a form prescribed by the department of commerce and must indicate:

(1) the total number of years that the increased credit is to be provided to the eligible taxpayer;

(2) the estimated number of employees on whose behalf each participating county will be foregoing a portion of its county economic development income tax revenues;

(3) the rights and remedies, if any, that are available to other participating counties upon default under the agreement by one (1) or more participating counties; and

(4) any other information required by the department of commerce or the department of state revenue.

(f) Each participating county in a project agreement executed under this section shall provide a certified copy of the ordinance adopted by the county under section 10 of this chapter, along with a certified copy of the executed project agreement, to the department of commerce and to the department of state revenue before February 1 of the calendar year during which the increase of the credit awarded under IC 6-3.1-13 will first be available to the eligible taxpayer.

(g) An eligible taxpayer is not required to file an application to qualify for the increased credit resulting from the execution of a

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project agreement under this section.

Sec. 12. (a) If one (1) or more counties adopt an ordinance under section 10 authorizing the counties to enter into a future incentive agreement, the participating counties may, subject to subsection (c), execute a future incentive agreement that requires each participating county to provide revenue from the county's economic development income tax to increase the amount of the credit against state tax liability available under IC 6-3.1-13 to an eligible taxpayer that may be awarded a credit under IC 6-3.1-13 in the future for a project located wholly or partly within the corporate boundaries of one (1) or more of the participating counties. Subject to subsection (d), upon the location of a project in one (1) or more participating counties, each participating county shall agree to provide revenues from the county's economic development income tax for each year the credit is available to the eligible taxpayer under the agreement between the board and the taxpayer under IC 6-3.1-13 in the following amounts:

(1) For a host county, an amount equal to:

(A) a percentage equal to the total of all local income tax rates for all local income taxes imposed by the county under IC 6-3.5, determined at the time the project agreement under this section is executed; multiplied by

(B) the amount of the taxpayer's actual annual payroll in the county for employees who are subject to the local income taxes imposed by the county under IC 6-3.5 during the year for which the taxpayer is claiming a credit under the agreement with the board, as determined from the taxpayer's withholding reports under IC 6-3-4-8 or IC 6-3.5-7-18(c) for that year.

(2) For a nonhost county, an amount equal to:

(A) a percentage equal to the total of all local income tax rates for all local income taxes imposed by the host county under IC 6-3.5, determined at the time the project agreement under this section is executed; multiplied by

(B) the amount of the taxpayer's actual annual payroll in the county for employees who are residents of the nonhost county and not subject to the local income taxes imposed by the host county under IC 6-3.5 because of the nonhost county's imposition of one (1) or more local income taxes under IC 6-3.5 during the year for which the taxpayer is claiming a credit under the agreement with the board, as determined from the taxpayer's withholding reports under

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1 IC 6-3-4-8 or IC 6-3.5-7-18(c) for that year.  
 2 A future incentive agreement under this section must be executed  
 3 before December 31 of the year preceding the calendar year in  
 4 which the agreement will take effect.

5 (b) A future incentive agreement executed under this section  
 6 must instruct the department of state revenue to retain from the  
 7 revenue derived from the imposition of a participating county's  
 8 economic development income tax an amount that would otherwise  
 9 be credited to the county's special account within the state general  
 10 fund under IC 6-3.5-7-10 equal to the greater of:

11 (1) the amount determined under subsection (a) for the  
 12 participating county; or

13 (2) the actual revenues generated from the imposition of the  
 14 participating county's economic development income tax;  
 15 for deposit into the state general fund, upon the location of a  
 16 project receiving a credit under IC 6-3.1-13 in one (1) or more of  
 17 the participating counties.

18 (c) A county may not execute a future incentive agreement  
 19 under this section if, before the execution of the proposed  
 20 agreement, there are:

21 (1) any bonds outstanding that were issued under  
 22 IC 6-3.5-7-14 and payable from the county's economic  
 23 development income tax; or

24 (2) leases entered into under IC 6-3.5-7-21 and payable from  
 25 the county's economic development income tax;

26 to the extent that the execution of the future incentive agreement  
 27 under this section would impair the rights of any holder of the  
 28 bonds issued or any party to the leases entered into.

29 (d) A future incentive agreement executed under this section  
 30 may provide that the increased credit may be provided for a total  
 31 number of years that is less than the duration of the credit  
 32 awarded under IC 6-3.1-13 to an eligible taxpayer.

33 (e) A future incentive agreement under this section shall be  
 34 executed on a form prescribed by the department of commerce and  
 35 must indicate:

36 (1) the date, if any, on which the agreement will terminate or  
 37 expire if a project has not been located in one (1) or more of  
 38 the participating counties by a specified date;

39 (2) the procedures, if any, by which additional counties may  
 40 join the agreement;

41 (3) the procedures by which a participating county may  
 42 exercise its right to withdraw from the future incentive

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agreement under subsection (g);

(4) the rights and remedies, if any, available to other participating counties upon the failure of a participating county to execute a project agreement under subsection (h) upon the location of a project in one (1) or more of the participating counties, if the defaulting county has not withdrawn from the agreement under subsection (g); and

(5) any other information required by the department of commerce or the department of state revenue.

(f) Each participating county in a future incentive agreement executed under this section shall provide a certified copy of the ordinance adopted by the county under section 10 of this chapter, along with a certified copy of the future incentive agreement, to the department of commerce before December 31 of the year preceding the calendar year in which the agreement will take effect.

(g) A participating county may withdraw from a future incentive agreement without penalty at any time before an eligible taxpayer is granted a credit under IC 6-3.1-13 for a project in one (1) or more of the participating counties. If there is only one (1) other participating county that is a party to the future incentive agreement, the agreement is dissolved at the time the first county withdraws under this subsection.

(h) Upon the location of a project by an eligible taxpayer in one (1) or more of the participating counties, the participating counties shall execute a project agreement on the form prescribed by the department of commerce under section 11(e) of this chapter. Each participating county shall forward a certified copy of the executed project agreement to the department of commerce and the department of state revenue before February 1 of the calendar year during which the increase of the credit awarded under IC 6-3.1-13 will first be available to the eligible taxpayer. An eligible taxpayer is not required to file an application to qualify for the increased credit resulting from the execution of the project agreement under this subsection.

(i) The department of commerce and the department of state revenue may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 11. IC 6-3.5-1.1-3.1, AS AMENDED BY P.L.170-2002, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. (a) **Except as provided in subsection (b)**, the county council may decrease the county adjusted gross income tax rate

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1 imposed upon the resident county taxpayers of the county. To decrease  
 2 the rate, the county council must, after January 1 but before April 1 of  
 3 a year, adopt an ordinance. The ordinance must substantially state the  
 4 following:

5 "The \_\_\_\_\_ County Council decreases the county adjusted  
 6 gross income tax rate imposed upon the resident county taxpayers  
 7 of the county from \_\_\_\_\_ percent (\_\_\_\_%) to \_\_\_\_\_ percent  
 8 (\_\_\_\_%). This tax rate decrease takes effect July 1 of this year."

9 (b) A county council may not decrease the county adjusted gross  
 10 income tax rate if the county or any commission, board, department, or  
 11 authority that is authorized by statute to pledge the county adjusted  
 12 gross income tax has pledged the county adjusted gross income tax for  
 13 any purpose permitted by IC 5-1-14 or any other statute.

14 (c) Any ordinance adopted under this section takes effect July 1 of  
 15 the year the ordinance is adopted.

16 (d) The auditor of a county shall record all votes taken on  
 17 ordinances presented for a vote under the authority of this section and  
 18 immediately send a certified copy of the results to the department by  
 19 certified mail.

20 (e) Notwithstanding IC 6-3.5-7, and except as provided in  
 21 subsection (f), a county council that decreases the county adjusted  
 22 gross income tax rate in a year may not in the same year adopt or  
 23 increase the county economic development income tax under  
 24 IC 6-3.5-7, **unless the county council adopts or increases the county**  
 25 **economic development income tax:**

26 **(1) after it has adopted an ordinance under this section to**  
 27 **decrease the county adjusted gross income tax; and**

28 **(2) in conjunction with the adoption of an ordinance under**  
 29 **IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

30 (f) This subsection applies only to a county having a population of  
 31 more than one hundred ten thousand (110,000) but less than one  
 32 hundred fifteen thousand (115,000). The county council may adopt or  
 33 increase the county economic development income tax rate under  
 34 IC 6-3.5-7 in the same year that the county council decreases the  
 35 county adjusted gross income tax rate if the county economic  
 36 development income tax rate plus the county adjusted gross income tax  
 37 rate in effect after the county council decreases the county adjusted  
 38 gross income tax rate is less than the county adjusted gross income tax  
 39 rate in effect before the adoption of an ordinance under this section  
 40 decreasing the rate of the county adjusted gross income tax.

41 SECTION 12. IC 6-3.5-6-12.5 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. (a) **Except as**

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1 **provided in subsection (c)**, the county income tax council may adopt  
2 an ordinance to decrease the county option income tax rate in effect.

3 (b) To decrease the county option income tax rate, the county  
4 income tax council must adopt an ordinance after January 1 but before  
5 April 1 of a year. The ordinance must substantially state the following:

6 "The \_\_\_\_\_ County Income Tax Council decreases the  
7 county option income tax rate from \_\_\_\_\_ percent (\_\_\_ %)  
8 to \_\_\_\_\_ percent (\_\_\_ %). This ordinance takes effect July  
9 1 of this year."

10 (c) A county income tax council may not decrease the county option  
11 income tax if the county or any commission, board, department, or  
12 authority that is authorized by statute to pledge the county option  
13 income tax has pledged the county option income tax for any purpose  
14 permitted by IC 5-1-14 or any other statute.

15 (d) An ordinance adopted under this subsection takes effect July 1  
16 of the year in which the ordinance is adopted.

17 (e) The county auditor shall record the votes taken on an ordinance  
18 under this subsection and shall send a certified copy of the ordinance  
19 to the department by certified mail not more than thirty (30) days after  
20 the ordinance is adopted.

21 (f) Notwithstanding IC 6-3.5-7, a county income tax council that  
22 decreases the county option income tax in a year may not in the same  
23 year adopt or increase the county economic development income tax  
24 under IC 6-3.5-7, **unless the county income tax council adopts or**  
25 **increases the county economic development income tax:**

26 **(1) after it has adopted an ordinance under this section to**  
27 **decrease the county option income tax; and**

28 **(2) in conjunction with the adoption of an ordinance under**  
29 **IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

30 SECTION 13. IC 6-3.5-7-5, AS AMENDED BY P.L.192-2002(ss),  
31 SECTION 121, IS AMENDED TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in  
33 subsection (c), the county economic development income tax may be  
34 imposed on the adjusted gross income of county taxpayers. The entity  
35 that may impose the tax is:

36 (1) the county income tax council (as defined in IC 6-3.5-6-1) if  
37 the county option income tax is in effect on January 1 of the year  
38 the county economic development income tax is imposed;

39 (2) the county council if the county adjusted gross income tax is  
40 in effect on January 1 of the year the county economic  
41 development tax is imposed; or

42 (3) the county income tax council or the county council,

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whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), and (p), the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic development income tax on the county taxpayers of \_\_\_\_\_ County. The county economic development income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

**However, an ordinance to impose the county economic development income tax may be adopted at any time during a year if the ordinance is adopted in conjunction with an ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted. **However, if an ordinance to impose the tax under this chapter is adopted after April 1 in a year in conjunction with the adoption of an ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3, the ordinance under**

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**this chapter may take effect January 1 of the year following the year the ordinance is adopted.**

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than

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twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

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(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);  
if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

SECTION 14. IC 6-3.5-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) **Except as provided in subsection (d)**, the body imposing the tax may decrease or increase the county economic development income tax rate imposed upon the county taxpayers as long as the resulting rate does not exceed the rates specified in section 5(b) and 5(c) or 5(g) of this chapter. The rate imposed under this section must be adopted at one (1) of the rates specified in section 5(b) of this chapter. To decrease or increase the rate, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:



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"The \_\_\_\_\_ County \_\_\_\_\_ increases (decreases) the county economic development income tax rate imposed upon the county taxpayers of the county from \_\_\_\_\_ percent (\_\_\_\_%) to \_\_\_\_\_ percent (\_\_\_\_%). This tax rate increase (decrease) takes effect July 1 of this year."

**However, an ordinance to increase the county economic development income tax may be adopted at any time during a year if the ordinance is adopted in conjunction with an ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

(b) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted. **However, if an ordinance to increase the tax under this chapter is adopted after April 1 in a year in conjunction with the adoption of an ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3, the ordinance to increase the tax under this chapter may take effect January 1 of the year following the year the ordinance is adopted.**

(c) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

**(d) The body imposing the county economic development income tax may not decrease the rate of the tax if the county has adopted an ordinance under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3 to increase the credits available under IC 6-3.1-13 to eligible taxpayers in the county with revenue from the county economic development income tax.**

SECTION 15. IC 6-3.5-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The county economic development income tax imposed under this chapter remains in effect until rescinded.

(b) Subject to section 14 of this chapter, **and except as provided in subsection (e)**, the body imposing the county economic development income tax may rescind the tax by adopting an ordinance to rescind the tax after January 1 but before April 1 of a year.

(c) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(d) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

**(e) The body imposing the county economic development income tax may not rescind the tax if the county has adopted an ordinance**

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1 under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3 to increase the  
 2 credits available under IC 6-3.1-13 to eligible taxpayers in the  
 3 county with revenue from the county economic development  
 4 income tax.

5 SECTION 16. IC 6-3.5-7-10 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A special  
 7 account within the state general fund shall be established for each  
 8 county adopting the county economic development income tax. Any  
 9 revenue derived from the imposition of the county economic  
 10 development income tax by a county, **minus any amount that must be**  
 11 **retained by the department under an ordinance adopted by the**  
 12 **county under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3,** shall be  
 13 credited to that county's account in the state general fund.

14 (b) Any income earned on money credited to an account under  
 15 subsection (a) becomes a part of that account.

16 (c) Any revenue credited to an account established under subsection  
 17 (a) at the end of a fiscal year may not be credited to any other account  
 18 in the state general fund.

19 SECTION 17. IC 6-3.5-7-11 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **Except for**  
 21 **revenue that the department must retain under an ordinance**  
 22 **adopted by the county under IC 6-3.1-13.1, IC 6-3.1-13.2, or**  
 23 **IC 6-3.1-13.3,** revenue derived from the imposition of the county  
 24 economic development income tax shall, in the manner prescribed by  
 25 this section, be distributed to the county that imposed it.

26 (b) Before July 2 of each calendar year, the department, after  
 27 reviewing the recommendation of the budget agency, shall estimate and  
 28 certify to the county auditor of each adopting county the amount of  
 29 county economic development income tax revenue that will be  
 30 collected from that county during the twelve (12) month period  
 31 beginning July 1 of that calendar year and ending June 30 of the  
 32 following calendar year, **less any amount of the revenue that will be**  
 33 **collected and that the department must retain under an ordinance**  
 34 **adopted by the county under IC 6-3.1-13.1, IC 6-3.1-13.2, or**  
 35 **IC 6-3.1-13.3.** The amount certified is the county's certified  
 36 distribution, which shall be distributed on the dates specified in section  
 37 16 of this chapter for the following calendar year. The amount certified  
 38 may be adjusted under subsection (c) or (d).

39 (c) The department may certify to an adopting county an amount  
 40 that is greater than:

- 41 (1) the estimated twelve (12) month revenue collection; **minus**
- 42 (2) **any amount of the estimated revenue collection the**

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1            **department must retain under an ordinance adopted by the**  
 2            **county under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3;**  
 3            if the department, after reviewing the recommendation of the budget  
 4            agency, determines that there will be a greater amount of revenue  
 5            available for distribution from the county's account established under  
 6            section 10 of this chapter.

7            (d) The department may certify an amount less than:

8            (1) the estimated twelve (12) month revenue collection; **minus**

9            **(2) any amount of the estimated revenue collection the**  
 10           **department must retain under an ordinance adopted by the**  
 11           **county under IC 6-3.1-13.1, IC 6-3.1-13.2, or IC 6-3.1-13.3.**

12           if the department, after reviewing the recommendation of the budget  
 13           agency, determines that a part of those collections need to be  
 14           distributed during the current calendar year so that the county will  
 15           receive its full certified distribution for the current calendar year.

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